

BOARD PROCEDURES FOR WILDLIFE REGULATIONS

*Adopted by the Virginia Board of Game and Inland Fisheries
January 9, 1997*

1. General Schedule of Regulatory Action and Processes.

The schedule for proposing new and amending old regulations should be as follows: Major reviews of wildlife and fish regulations, will each occur once every two years in an alternating sequence. Fish regulation review will occur in even years, usually at the August and October Board meetings, and wildlife regulation review will occur in odd years, usually at the March and May meetings.

As referenced above, the usual time-frame between the first and second Board meetings discussed in these procedures, is approximately 60 days. Review of regulations governing non-reptilian terrestrial and avian nongame species should occur in conjunction with the biennial major review of wildlife regulations. Review of regulations governing aquatic, amphibian, and reptilian nongame species should occur in conjunction with the major biennial review of fish regulations. Watercraft regulations should be evaluated for any needed amendment or action in conjunction with the major biennial review of fish regulations. Permitting, administrative, legislatively imposed, and other regulatory actions, may be undertaken outside of this general schedule as deemed necessary by the Board.

These procedures are not applicable to any emergency situations or when setting the migratory bird regulations. Procedures for these processes will be developed at a later date.

The Agency will encourage the public to submit recommended regulation modifications up to a cutoff date prior to the first Board meeting in a regulation review period. Cutoff dates for these comment periods will be listed in the Agency's regulation summary pamphlets and will be January 1 for wildlife regulations and June 1 for fisheries regulations in their respective review years. Submissions must include name, address, and phone number, and should also state recommendations and justification for change.

The Board recognizes that an individual may petition it for rule making at any time and will provide an opportunity for the public to address it at most meetings. The Board may entertain the comments at that time in their entirety, request an oral summarization of the issue and request a written proposal for the staff to consider, invite the individual or club to present their issues at a specific future meeting, or they may defer the issue to staff prior to hearing the petition. The Board does

recommend that proposals be submitted to staff for review prior to any presentations being made to them. Staff or the Board should provide a formal response to all reasonable petitions that have been made.

The Department's home-page on the world wide web will be used as a location to post these procedures, give instructions on when and how to submit written comments on specific and general regulatory topics, as well as advertise proposed regulatory actions and public hearing schedules. Access to Agency regulations will be maintained on the Agency's website. The web should be used as a tool to educate and assist the public in their understanding of our regulatory process and their opportunities to participate in this process. The procedures will also be available to the public upon request.

2. Advertisement of First Board Meeting.

Approximately 45 days in advance of the first of the two Board meetings at which the regulatory action(s) will be conducted, staff will submit to the Registrar of Regulations an announcement for the scheduled meeting. This action is required pursuant to §9-6.14:22C of the Administrative Process Act and §2.1-343 of the Virginia Freedom of Information Act. Each notice shall include (i) the date, time, and place of the meeting; (ii) brief general description of the nature of the meeting and the business to be conducted; and (iii) the name, address and telephone number of an individual who may be contacted for additional information about the meeting. Notices for meetings of public bodies of the Commonwealth on which there is at least one member appointed by the Governor shall state whether or not public comment will be received at the meeting, and, if so, the approximate points during the meeting when it is anticipated that public comment will be received. Pursuant to §9.6.14:22C of the Administrative Process Act, failure to publish in the *Register* the notice for such a meeting or any inadequacies in the information contained in such notice shall not affect the legality of actions taken at the meeting. Therefore this does not preclude the Board from addressing those issues not specifically listed for discussion.

The Agency will also publish this announcement in the "*Outdoor Report*" and on its web-page. Other agency publications may be used, but as a matter of course this Agency will not publish this announcement as a paid advertisement in commercial media.

In these same announcements in the *Register*, *Outdoor Report*, on the web, and wherever else deemed appropriate, the Agency will announce that a written public comment period on the Board proposed regulations will begin when it has voted to

propose regulations. It will also announce that the regulatory action(s) proposed by the Board shall be available to the public at the Department's regional offices as soon as any edits necessitated by actions taken at the first Board meeting have been made by Agency staff.

A copy of all meeting announcements will be sent by the Agency's policy analyst to the Director's Office. The Director's Office will mail meeting announcements to individuals on the public mailing meeting notification list.

3. Preparation Of Staff Recommendations, Transmittal Of Recommendations, and the Opening of the Written Public Comment Period on Board Proposals.

Staff will prepare recommendations for regulatory action(s) which will be based on biological data (if appropriate), input from field staff, comments from the public, and any other available information deemed to be relevant. The staff recommendations will be completed for mailing to the Board no later than 14 days prior to the first Board meeting.

Staff recommendations will be made available to members of the public at the time of the Board mailing. At least one copy of all agenda packets and materials furnished to members of a public body for a meeting shall be available for inspection by the public at the same time such documents are furnished to the members of the public body. The Agency will make one copy of the regulatory packages available for review at each of its regional offices as well as the Richmond office. Comments concerning these staff recommendations will not be accepted for the official record by this Agency until the announced written comment period opens at the conclusion of the first Board meeting.

4. Presentation Of Staff Recommendations.

Staff will present their recommendations for regulatory action(s) to the Board during the first of the two Board meetings. As part of this process, the staff will also present recommendations on whether public hearings should be held, and if so, how many, where, and on what dates and times. Staff should also have any proposed new form or revisions to existing forms prepared for Board review.

5. Public Comments Received In Public Hearing at the First Board Meeting.

The Board will receive the public's comments in a public hearing held following the staff presentations. Comments must be submitted in person, either written or

verbally.

6. Board Proposal Of Regulatory Action.

The Board will vote to propose and advertise regulatory action(s) and forms, as it deems appropriate prior to closure of the meeting. The Board understands that only recommendations that have been presented to or discussed while the public is still present may be voted on. The Board will also establish dates and locations for public input meetings based on staff recommendations. When appropriate, the Board reserves the right to waive the public input meetings.

The regulatory action(s) proposed by the Board shall be made available to the public as soon as any edits necessitated by actions taken at the first Board meeting have been made by Agency staff. These updated proposals will be forwarded to each regional office and maintained at the Richmond office for public review, and may also be posted on the Agency's web-page.

7. Public Comment Period.

During the comment period, calls received by this Agency regarding regulatory matters will be routed to the Agency's policy analyst. The caller will be required to submit comments in writing for them to become part of the official record, to ensure the authenticity of the comments, as well as ensure that the essence of the comments is captured accurately. When a specific public comment period has been closed on a set of proposed regulations, the caller will be notified that they must submit in person any proposal-specific comments to the Board during the public comment period at the second Board meeting, however, other comments may be entertained at any time. If the caller has specific technical questions on a given regulation that go beyond the expertise of the policy analyst, they will be referred to a designated contact which has been established in each Division. Questions about proposed regulations which are received in the field offices, will be routed to the Agency's policy analyst when appropriate.

Written comments should be sent to the Agency's policy analyst(s) in the Richmond office. In order to be assured that comments are included in the Board's briefing materials, the comments need to be received by the Agency no later than seven days prior to the second Board meeting. For comments received later than seven days prior to the Board meeting, it cannot be guaranteed that the Board will have opportunity or time to review them before taking final action on the proposed regulations. The analyst, or the analyst's support staff, will be responsible for

forwarding a copy to the appropriate Division, maintaining the official comment files, providing a receipt letter to each comment submitter, and preparing the comment materials for copying for mailing to Board members. Divisions receiving comments directly will provide originals to the analyst for archiving. The analyst will acknowledge receipt of these written comments also. Official responses will be maintained for a period of three years. The analyst will maintain a separate record of the public comments routed to this Agency from the Governor's Office.

8. Advertisement of the Proposed Regulatory Action.

The proposed regulations will be submitted to the *Virginia Register* for publication at the first submittal opportunity offered by the Registrar following the closure of the first Board meeting. It will be noted that the written comment period associated with these regulations was published in the *Register* preceeding the first Board meeting, and officially opened at the closure of the first Board meeting. The advertisement will also note the closing date for comments. In this same issue of the *Register*, or the following issue if sufficient time is still available, the Agency will also advertise the second Board meeting and its agenda.

The public meeting schedule will also be published in the *Outdoor Report* within 4-days after the first Board meeting. Meeting schedules will be placed on the Agency's web-page within 6 days following the first Board meeting. Staff may submit the public meeting schedule to local newspapers across the State in areas potentially impacted by the proposed regulations.

As required in § 29.1-501 of the *Code of Virginia*, the regulations or regulation summaries and the Board meeting dates, where the regulations will be next discussed, must be published in newspapers not less than fifteen nor more than thirty days before the second Board meeting. Staff will request that all notices be printed between 30 and 23 days prior to the second Board meeting. In order to be assured that comments are included in the Board's briefing materials, the public comments solicited through this process need to be received by the Agency no later than seven days prior to the second Board meeting.

A copy of all meeting announcements will be sent by the Agency's policy analyst to the Director's Office. The Director's Office will mail meeting announcements to individuals on the public meeting notification list approximately 30 days in advance of the scheduled meeting.

9. Holding of the Public Input Meeting(s).

Public meetings may be held on or between day 10 and day 24 following the first Board meeting. Staff will conduct and preside over these public meetings. Staff will summarize any oral comments received at these meetings or record the meetings if so desired by staff. Meetings shall be located in areas most impacted by the proposed regulations.

10. Mailing to the Board.

The current proposed regulations, including recommendations for amendments and all written comments received to date, will be mailed to the Board 14 days in advance of the second Board meeting. All other correspondence will be forwarded to the Board as soon as possible after the official closure of the specific public comment period.

At times the volume of written comments received may prohibit the mailing of all written comments to the Board. If comments are deemed to be too large for mailing in their entirety, the Director may allow staff to furnish the Board with only a synopsis of the comments.

Copies of these proposed regulations and recommended amendments will be made available at each regional office and the Richmond office. (This will be the third mailing of the regulatory materials to the regions in this process.) Dates will be clearly displayed on each version mailed to the regions. The regional office staff shall maintain files and keep this information organized should the public request it.

11. Proposed Regulation Package Amendments.

Staff will prepare a record of the public comments, and may recommend amendments to the proposed regulation as appropriate based on those comments. All written comments, or summaries thereof, will be submitted to the Board for their review prior to their final vote.

12. Presentation Of Board Proposals and Summary of Public Comments.

Staff will present the regulation proposal(s), along with a synopsis of public comments, and explain any amendments to the full Board on the first day.

13. Public Comments Received in a Public Hearing at the Second Board Meeting.

The Board will receive the public's comments in a public hearing held following the presentation of the staff recommendations. Comments must be submitted in person, either written or verbally.

14. Board Action on Proposal.

The Board will vote after the public comment has been received at this meeting, to adopt, amend and adopt, or reject the regulatory proposals as final. The Board understands that only Board proposals or recommended amendments that have been presented to or discussed while the public is still present on the first day may be voted on.

15. Submittal of Final Regulations.

Approved final regulations will be submitted to the *Virginia Register* on the first available date following the second Board meeting.

16. Regulations Become Effective.

Regulations will become effective 30 days following publication in the *Virginia Register* or on a later date if specified in the regulation. The Agency shall maintain as a public record a complete file of its regulations which have been superseded on or after June 1, 1975. It shall also make available for public inspection a complete file of all currently operative regulations, as well as all material adopted by reference, and allow public copying or make copies available to the public either without charge, at cost, or on payment of a reasonable fee.

17. Fishing and Hunting Regulation Pamphlets.

The Agency produces an annual publication of laws and regulations relating to hunting, fishing, and trapping. The Director has determined that the Hunting and Trapping Virginia Regulations pamphlet will be available at the license agents annually by the last week of June. The Virginia Freshwater and Saltwater Fishing Regulations pamphlet will be available at the license agents by the last week of December. The Board should be sensitive to these deadlines and the regulatory process time-lines when setting Board meeting schedules annually.

The fishing and hunting pamphlets will include a statement that encourages

individuals to send the Agency written recommendations on the development of a new, or amendment of an existing, wildlife regulation. Written comments that do not specifically relate to staff recommendations or Board proposals may be submitted to the Agency outside of the formal announced comment periods.